IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 8491 of 2005

Between:

Syed Rafeeque, s/o Syed Ahmed,
r/o H.No.16-7-435, Malakpet, Hyderabad.

... PETITIONER

AND

1 Municipal Corporation of Hyderabad, rep., by its Commissioner, Office at Tank Bund, Hyderabad.
2 The Assistant City Planner, Circle-I, M.C.H.,Hyderabad.
3 The Mandal Revenue Officer, Saidabad Division, Hyderabad.
4 The Station House Officer, Chaderghat P.S., Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ order or direction more particularly one in the nature of writ of mandamus, to declare the impugned letter No.1/Open/8/16/2005 dt.12-4-2005 threatening to demolish the structures raised in plot admeasuring 50.05 sq.yds., or 41.85 sq.meters, situated at Murkinala, Malakpet of Ward No.16, Block No.8, Hyderabad, within 3 days as illegal, arbitrary, unconstitutional and consequently set aside the same by directing the respondents not to take any coercive steps to demolish or interfere with the construction work, and to grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.CHILAMKURI HANUMANTHA RAYUDU

Counsel for the Respondents 1 & 2: RAMA RAO GHANTA

Counsel for the Respondent No.3: G.P. FOR REVENUE

Counsel for the Respondent No.4: G.P. for Home

The Court at the stage of admission made the following:

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.8491 OF 2005

ORDER :

This writ petition is filed seeking a Writ of Mandamus declaring the impugned proceedings of the 1st respondent dated 12-04-2005 passed under Section 636 of the Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act'), thereby directing the petitioner to remove the alleged unauthorised constructions made by him in Plot No.3, Murkinala, Malakpet, Hyderabad within three days, as arbitrary and illegal.

The only grievance of the petitioner is that the impugned order was passed without considering his version to the allegation that he has unauthorisedly started the constructions in question.

Heard the learned Counsel for both the parties and perused the material on record.

A perusal of the impugned order makes it clear that the version of the petitioner was not taken into consideration before directing removal of the alleged unauthorised constructions. Hence, I am of the view that the matter requires reconsideration.

Accordingly, without expressing any opinion on merits, the Writ Petition is disposed

of granting liberty to the petitioner to submit his explanation treating the impugned order dated 12-04-2005 as a show-cause notice. If any such explanation is filed by the petitioner within a period of two weeks from today, the first respondent Corporation shall consider the same and pass appropriate orders in accordance with law. Till such time, the respondents shall not take any coercive steps against the petitioner for demolition of the structures in question. No order as to costs.

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15th April, 2005.

lsk

ASSISTANT REGISTRAR

To

1 Commissioner, Municipal Corporation of Hyderabad, Office at Tank Bund, Hyderabad.
2 The Assistant City Planner, Circle-I, M.C.H.,Hyderabad.

3 The Mandal Revenue Officer, Saidabad Division, Hyderabad.
4 The Station House Officer, Chaderghat P.S., Hyderabad.

5 Two C.Cs. to the G.P. for Revenue and Home, High Court buildings, Hyderabad. (OUT)

6 Two C.D. copies.